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The Influence of Religion in the Administration of Justice.

A
S E R M O N

Preach'd at the Assizes, at
CHELMSFORD in **ESSEX**,
July 21, 1726.

B E F O R E

The Right Hon. Sir *Robert Raymond*, Lord
Chief Justice of the King's-Bench,

A N D

Mr. Justice **REYNOLDS**.

By **THOMAS COX**, A. M. Lecturer of St. Michael's, Cornhill.

*Publish'd at the Desire of Mr. High-Sheriff, and the
Gentlemen of the Grand Jury.*

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T O
EDWARD PEIRSON,
Esq;
HIGH-SHERIFF
O F T H E
County of *ESSEX*;
A N D T O T H E
Gentlemen of the *Grand Jury*.
V I Z.

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This Discourse, Printed at your Request, is
humbly Dedicated by,

GENTLEMEN,

Your most obedient Servant.

T. Cox.

TO
EDWARD PIERSON

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HISTORICAL

AND TO THE

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T. Cox

The Influence of RELIGION in the Administration of Ju- stice.

2 SAM. xxiii. 3.

*He that ruleth over Men must be just,
ruling in the Fear of God.*

A Sense of Religion, or what is here called the Fear of God, does so manifestly tend to preserve the Peace of Society, and the Welfare of Kingdoms, that it is not more the Duty than it is the Interest of all Governors to support, to encourage, and even to maintain it in highest Esteem.

Religion is called by the Heathens, *The Bulwark of all Power and Jurisdiction, the Bond of good Discipline, the very Cement of all human Society, the Foundation and Ground-Work*

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Work of legislative Power *. And so necessary is it known to be in establishing civil Government, that those who are no Friends to it upon Principle, will allow, that this is the great use, nay, according to them, the only use and end to which it can serve. Agreeable to this their Sense of Religion has been the general Practice of all Nations, who, to shew their Piety, and the honourable Opinion they had conceived of the Gods they worship'd, would undertake nothing of moment, without first applying to them for their Assistance and Direction †: And nothing sure can be more becoming to Christians, whose Faith and Hope are so much better grounded, than to express *this way* our Belief and Dependance on God's particular Providence, his Inspection, and presiding over all human Actions, especially such weighty and momentous ones, as we are now going upon. This we are obliged to do, not only to confirm us in the Truth of the thing it self, that he does see and take notice of what we do, but that we may implore his Blessing, and that all Parties

* *Plutarch. Plato. V. in Gro. de jure B. & P.*

† *Potter Arch. Græ. Vol. 1. c. 5.*

concern'd may be moved by such Considerations, to act with the more Temper and Caution, with the greater Regard to the Duty they owe both to God and Man.

This being the Reason of our coming hither, in the first Place, Permit me, in as little of your Time as may be, to consider these last, and therefore more serious Words of *David*. He had seen, in the *preceding Reign*, to what Acts of Tyranny the Passions of Men, when under no Restraints from Religion, would carry them ; and by the Difficulties he had met with in his *own*, he found how necessary it was for all in Authority to be moved by an higher Principle, than mere human Policy ; and therefore before his Death he not only gave his Son Instructions, how to govern well, but he left this last Direction upon Record to the latest Posterity, which he introduces not as a Father, or a King, but as a Prophet of God, with, *The God of Israel has said, the Rock of Israel spoke to me, He that ruleth over Men must be just, ruling in the Fear of God.*

My Business from this Passage, shall be to shew what great Influence the Fear of God naturally has upon all our doings, especially in all Acts of Justice, or that whosoever is any way

concern'd in them, can no more be unjust than irreligious, or irreligious than unjust. Not that I would presume to offer any thing of Direction to those, whose full Understanding in their Office makes it unnecessary, and whose known Integrity in the Execution of it, forbids any view that way, but I shall apply myself to the lower Springs of Justice; to those who bring any Accusation, give Evidence, or are any way concern'd, or are appeal'd to, in it; by whose Allegations and Proofs all Judgment is form'd; who by their Station of Life, may not be supposed above my Advice; and whose unsettled Principles of Religion or Justice may perhaps require it.

I shall, I. Consider severally the Duties of Justice, and of the Fear of God.

II. The Connexion and Dependence the one has on the other. And,

III. The Happiness we enjoy in the great Care there is taken by our Governors of them both.

First, To be just in this Text, implies, a constant and perpetual Desire and Will of giving every one his due, according to the Laws of civil

Civil Society, or particular Agreement. Could Men live in common, without calling any thing their own, there would be no Need of any Fences, Justice would be of no great Use, but as the present Constitution of the World is, there is very great Occasion for the Exercise of it. Whatever by our Pains and Industry we can claim a Property in, it is Justice to preserve to us, and yield us the quiet Possession of, as it would be the greatest Hardship and Wrong, either by Force or Fraud to keep us from it; for the Defence of our Property being the end of putting our selves under any Government, no Body can have a Right to deprive us of that, for the Preservation of which we first enter'd into it; and therefore Justice will appear to be of the greatest Benefit to Mankind, not only in preserving them in Peace and Safety, in putting a Stop to Oppression and Injury, without which there could be no comfortable living, but it will set on work all the Springs of human Action; it will be our highest Encouragement to perform willingly the Duties of our several Callings. Who can be negligent or slothful in Business, when he knows himself safe in enjoying the Reward of his Labour, when he knows he shall be

defended in his Right to it? Who can refuse a ready and chearful Obedience to the Commands of his Superiors in any Station, that knows he shall meet with all fitting Protection and Justice, so long as he continues to do so?

This it is, that God has always requir'd, and has made it Part both of his moral and positive Law, that we should render to all their Due, whether it be Tribute, Custom, Fear, or Honour: Whatever we know, or believe to belong to others upon account of any Office, Virtue, or Action of theirs, *whatever is their Due*, he has made it a Part of Justice to give them. And it was for the better Administration of Justice, that he vested so great Power in the Civil Magistrate, and has so strictly enjoin'd Obedience to him in all lawful things, that he has appointed him to decide the Rights of his Subjects by standing Laws, and authoriz'd Judges of them, and has put into their Hands a Power of Life and Death. For tho' the judicial Laws of *Moses* were not intended to be the Rule of Government to any other Nation, yet proceeding from infinite Wisdom, may not only be a Pattern to all succeeding Law-givers, but may serve to confirm and ratify what is agreeable to them. What God thought

thought necessary to appoint in his own Government, in all Cases of moral Justice and Equity, are necessary in all others: What his People wanted, either to encourage them in their Duty, or to restrain them from offending, no Nation can well be without. Nay, the Reason will be stronger, for if in the *Jewish* State, where the People were oblig'd to an ordinary Course of living by God's more immediate Presence and continual Care, he was oblig'd to punish, even capitally, many Offences; we may conclude, that in all Kingdoms, where the Safety and Peace of the Subject is duly regarded, not only penal Laws, but frequent Executions of them are necessary, *in terrorum*, that others may bear, and fear, and do no more: any such wickedness among them; Deutl xiii. 11. This Precedent seems fully to justify the like Methods of Governing in every Age and Nation, for since there ever were, and ever will be, seditious, encroaching, injurious, resolutely wicked and desperate Persons, who have no other Restraints upon them than what arise from Fear of suffering, or Apprehension of Danger, without this there would be no Way of opposing their ungovernable Rage, but all things

things must submit to their Power and Will. Since therefore there is the same Necessity of securing to every Man his Rights and Property that ever there was, since there is the same Need of encouraging Virtue and suppressing Vice, there must be also the same Usefulness and Necessity for the due Execution of Justice. For this Reason it is, that the civil Magistrate is call'd in Scripture, *The Minister of God, a Revenger to execute Wrath upon them that do Evil*: Hence he is said, *not to bear the Sword in vain, but to be a Terror to Evil-doers*, Rom. xiii. 4. All which Expressions suppose in him a full Power to use all lawful or expedient Means to secure the Persons committed to his Care, from Violence and Injury, and of using the Sword as the Law shall direct him, in Justice, and in the Fear of God. This is the other Duty I mention'd, that whoever rules over Men, must be just, ruling in the Fear of God.

2. As soon as ever we have any Idea of a self-existent Being, who is the first Cause of all things, and by whose Power and Providence they still subsist, our Fear, as a natural Passion, obliges us to enquire into his Nature, whether he connects himself with us, or in what Relation

Relation we stand in respect to him. If we find him acquainted with what we say and do, or governing our Actions, if we find our State of Happiness or Misery to depend upon him, our Fear will put us upon all Ways of securing our selves from Danger, it will put us upon examining every Attribute to see what is good and profitable for us, how great a Friend and Benefactor he will prove to us, if we please him, how formidable if we displease him. And the more we understand of God, the more we shall fear him. There is no Attribute or Perfection of his but carries Reverence along with it; and whereas we commonly find that a nearer Acquaintance with great and surprizing Objects dispels our Fear, the nearer we approach to God, the more will our Fear of him be. Not that I think the true Fear of God arises from the sole Apprehension of his Anger, the best and most valuable sort of it, no doubt, is that, which is mixt with divine Love, which represents him not only just, but merciful, and by that Means restrains us from presuming on his Justice or abusing his Mercy. For the Persons of most ingenuous Nature are always most afraid to displease those that have been most kind to them; Children are apt to fear

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fear their most indulgent Parents, and Servants would not displease their best Masters; and it is the same with reference to Almighty God, with whom, the *Psalmist* says, *There is Mercy, therefore shall he be feared, Ps. cxxx. 4.* The greater his Love has been to us, the more fearful are we to be of offending him.

This Influence the Fear of God naturally has upon all our Doings, there is scarce any Virtue to which this does not engage us, or any Vice it would not keep us from; did it sufficiently and sincerely possess the Hearts of all Men, they would need no other Restraint from Evil; and therefore, tho' the Servants of God have often been describ'd by other Names, as Men *righteous, upright, or just*, yet they are more generally known by the Character of *such as fear him*; as if nothing could so easily make, or so certainly keep a Man good, as the Fear of God. This brings me to consider,

Secondly, The Connexion and Dependence that Justice, as well as almost all other Virtues, has upon it. Here, I think, it will be allow'd, that the best Indication we can give of a sincere and unfeign'd Sense of Religion, is by the constant Series of our good Actions:

If so, the Duties of Justice and Religion will be so reciprocal, that as the Fear of God cannot subsist but in and by our just Actions, so neither can our just Actions avail us without his Fear. For *to be just*, out of an airy Notion of Honour, or for the Sake of our Reputation, and not out of any solid Principle of Duty, can be of little Service or Security to us, such an one may be said to obey his Reason, or his Interest, not any Law of God, because that great Motive to Obedience (his Fear) was wanting. But when our Lives are govern'd by a Sense of his Power and Authority, when we have his Fear always before our Eyes, no Secrecy can tempt us, no Hopes of Impunity or Advantage can prevail with us to be otherwise: We then act as under his Eye; we know that he that is higher than the highest regards us, and therefore 'tis *him alone we fear*. So that as the Fear of God is the Original and Rise of Justice, so is Justice the very Life and End of fearing God: The most plausible outward Appearances of Probity and Uprightness, unless they proceeded from hence, might deceive us; without this we should scarce be able to depend on any Man's Word; we should scarce be safe in trusting to
any

any body's Faithfulness, because if Opportunity, Evasion, or Interest favour, there is no *inward* Principle left, there's *no Fear of God* to restrain him. But where that rules, what need we doubt?

Under a Sense of Religion, no Man, in a private Capacity, can be deceitful any more than he can be profane; he can, consistently with himself, I mean, no more be unjust than he can be impious and wicked.

Under the Government of Religion Kingdoms themselves would easily be kept regular and peaceable, every one would act in his own Sphere, with Steadiness and Conscience. How desirous of their Peoples Welfare would Princes be, who govern by Rules of Religion; how dutiful, how obedient their Subjects! Under a religious Prince, they would have nothing to fear, but as the one will always endeavour to rule with Conscience, the other for Conscience Sake will be the more ready to obey. So close is the Union of Religion with Justice, so great is the Dependence of one upon the other, that as every one, that is religious, is by that naturally led, as it were, to be just, so no one that is willingly, or wilfully unjust, can be said to be religious.

With

With what View to the publick Good then any Man, whether in Authority or out of it, can employ his Abilities and Time in weakening the Obligations we receive from Religion; by what Politicks he can be govern'd, or what private Interest he can have in endeavouring to prove, or even to wish *the Grounds of it* to be weak, uncertain, or false, I must leave to himself to determine. *Pietate sublata, says Tully*, fides etiam & societas humani generis & una excellentissima virtus justitia tollitur. Take away Religion, and you take away with it mutual Faith, and human Society, and the most excellent of Virtues, Justice it self.* And *Machiavel*, who had as little Respect for Religion as most People, ascrib'd the Prosperity of *Rome* to their Care of Religion, and tells us that all Princes and Commonwealths, who would keep their Government entire and uncorrupt, are above all things to have a Care of Religion, and to preserve it in due Veneration, for *in the whole World*, says he, *there is not a greater Sign of imminent Ruin, than when God and his Worship are despis'd†.*

* Lib. 1. de Nat. Deo.

† Mach. Disc. p. 284.

And sure I am, that if so far as they undermine Religion, they undermine Government, which I take to be very certainly true, as such Persons herein shew they have very little Fear of God, they cannot be thought to do any great Honour to the King. — I go on,

Thirdly, To the Happiness we enjoy in the Care that is taken by our Governors both of Justice and Religion. The chief end of Magistracy is to preserve all States and Communities in Order, Peace and Safety, which cannot be done without a regular and just Execution of their Laws; without this, the best constituted Kingdoms cannot continue long. When Justice is duly administer'd we are safe in our Lives, in our Estates, in our Liberties, and in the Exercise of our Religion; without it every Place is fill'd with Discord, Contentions, Seditions, Robberies, Cruelties, Assassinations, and every evil Work. So many and so great are the Benefits Mankind receive from Justice, and so many the Mischiefs arising from the Neglect of it, that all Law-givers, from the first Settlement of any Form of Government, have made such Divisions for the more easy Administration of it, as best suited with

with the Circumstances of the Places, and Persons concern'd in it.

In the *Jewish* State, when *Moses* found he should wear himself away with continual Attendance upon Judgment, every Day, from Morning to Evening, at *Jethro's* Instigation and Advice he provided out of the People, *able Men, such as fear'd God, Men of Truth, and hating Covetousness*, whose Business it should be to judge the People at all Seasons, according to the Allotment he made to each of them; and he kept only the most difficult and perplex'd Causes to be heard by himself, *Exod. xviii. 13, &c.* — In After-times we find that *Samuel* went from year to year in circuit, to *Bethel, Gilgal, and Mizpah*, and judg'd *Israel* in all those places, *1 Sam. vii. 16.*

The same Rule has been observ'd in all well-order'd Kingdoms or Common-wealths. The *Athenians* were divided into *φυλαι*, Tribes, which for their Conveniency were subdivided into many Parts*.

In the *Roman* State, when the City grew populous, it was divided into three Wards,

* *Potter Arch. Græ. Vol. 1. p. 49.*

and those into thirty *Curia*, afterwards their Magistrates had their distinct Provinces assign'd them; in which, if they were large, were two provincial Magistrates, a Consul to manage War, and a Prætor, or chief Justice, to sit in Judgment *.

Our own Nation also has shewn the greatest Care that can be for the exact and regular Administrations of Justice, in which, at the Conquest, some remarkable Changes were made. Then it was, that Judges, noble and learned, were created, that the four Terms were appointed, and all Causes were heard by Juries of twelve Men, in such Places as the King should appoint, and find to be most convenient. But in the Reign of *Henry II.* the Kingdom was divided into six Parts or Circuits, which Appointment remains with very little Alteration to this Day †. And we may ask in what Nation is Justice more impartially administer'd, at Times more proper, in Places more convenient, or by Persons more excellent, than in our own? If the Wisdom of a Prince is seen in the Choice of his Ministers,

* Kennet's Rom. Ant. Godwyn, p. 184.

† Hollinghed, Eachard.

or his Concern for Justice in the Appointment of his Judges, who more discerning, who better chosen, who more just than they? Did other Nations require their Judges to be *wise Men, and understanding, i. e.* Men of Learning in the Law, of Prudence and Judgment in the Execution of it? Such have we. Did they require them to be *known among their Tribes* for Integrity and Justice, to be *Men of Courage*, and *without Respect of Persons*, that would do nothing for Favour, or for Fear? Such are Ours*. Did they require them to be *able Men, such as fear God*, and *are Men of Truth*, Men of Principle, of Religion and Veracity? Such they are. Must they be above Corruption, and *hate all Covetousness* and sordid Gain†? This they do. If such be their good Qualities, such their Actions, how well satisfy'd ought we to be in their Judgment, how easy, how happy in their Distributions of Justice?

But neither are we to stop here. There is so entire a Dependence of Justice on Religion, that, to take care of the one without the other, would not complete the Character of a

* *Dent.* 1. 13, 17.

† *Exod.* xviii. 21.

good Ruler ; and therefore if we turn our Eyes towards the State of Religion among us, we shall have the same Reason to think our selves happy on this Account also. — To the pious Care that is taken of our Religion, it is, that we are here in the free Exercise of it, that we now enjoy it in its Purity, as we receiv'd it at the Reformation, as it was restored from the Great Rebellion, as it was preserved to us at the Revolution, and as it now stands in peaceable and prosperous Condition, under the Favour and Protection of our *most religious and gracious KING*.

Religion would always meet with Encouragement, and the highest Instances of Favour, did not some, under that Umbrage, disturb and embroil the State: For whether we consider it as a thing of real and certain Foundation, (as it undoubtedly is) or only as a Contrivance to keep the World in order, as some would have it, every good Man, or good Politician, will countenance what he receives so great Hopes or Advantage from ; if not for the Sake of the Religion, yet for the Sake of the Advantage he receives from it ; but if it once comes to plead for an Exemption from Obedience to the Civil Power, if once the

Church advances to Independence on the State, or should be made an Instrument of either disturbing or destroying what by its very Institution it should support, who then can expect it?

As to the great Complaint of the Licentiousness of the Age, in teaching and propagating Errors and irreligious Principles without Restraint, This has been the Misfortune of all Times, and I don't see how in a Country, free, as Ours is, it can be avoided; but that cannot justly be reckon'd more a Crime *now*, which has been always the same, and which there is no Law in being to hinder. Neither from these Attempts of the Licentious and Ill-principled, do I think Religion and Goodness have so much to fear, as is imagin'd: We never fear our Houses being attempted, when we know we have Strength enough within to defend them. St. Paul has told us, 1 Cor. ii. 19. That considering the Artifices of the Devil and his Agents, working on human Weakness and Inconstancy, there *must and will be Heresies among us*; yet we shall have this Advantage from it, that *those that are approv'd will be made manifest*, the Truth of Religion will more plainly

plainly appear, and be taken more Notice of. 'Tis to Errors and Heresies that we owe the Works of many a learned Writer; we are beholden in part to *Ebion* and *Cerintus* for the Gospel of St. *John*; nay, we have seen by many Instances in our own Days, that those Truths that have fallen under Doubt and Disputes, have been resolv'd, and become the better establish'd. *When Differences arise in Religion*, says a learned Author, *it is an Argument for the Truth of Religion, because there can be no Difference about nothing; and Men would never differ about Religion, if it were not true, or even if they themselves did not think it to be so* *; which seems to be very plain, because Error as much supposes Truth, as Vice supposes Virtue; or a crooked Line a strait one.

As then the Welfare of Nations in a great Measure depends upon the Execution of their Laws, in Justice, and in the Fear of God: From the Care that is taken of both in our own, we have all the Reason in the World to hope for Peace and Quietness in our civil Affairs, and a free and undisturb'd Profession of

* *Jenkins*, 2 Vol. p. 542.

Religion in Spiritual. And as it is the constant Care and Endeavour of our Governors, that we should have it so, Let not our best Assistance be wanting to secure them both, to Us and our Posterity.

Nothing can more effectually contribute to this; nothing can add to the general Tranquillity and Happiness we enjoy so much, as our unanimous Care, in all things, to promote the Interest and Welfare of one of the best Constitutions of civil Government, as well as one of the best Establishments of Religion that ever Mankind enjoy'd since the World stood; but we must always guard against those great Absurdities, of the State's Subsisting without an established Church, or the Church's subsisting independently of the State. Our Monarchy and Episcopacy are so united, both in Being and Interest, that if the one be safe, the other is out of Danger.

May Justice and Religion, *Mercy and Truth* then meet together, that *Glory* may dwell in our Land: This will be the Means of securing all the Ends of Government to our selves, all the Happiness we wish for, or can desire.

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This will be the Means of procuring to His most Sacred Majesty King *GEORGE* a long and prosperous Reign over us, and of transmitting all these Blessings to *His*, and our Posterity.

And this, God of His infinite Goodness and Mercy grant for the Sake of Jesus Christ our Saviour. To whom with the Father and Holy Ghost be given all Praise and Glory for ever and ever. AMEN.



